

405 KAR 10:080. Full-cost bonding.

RELATES TO: KRS 350.020, 350.060, 350.062, 350.064, 350.093, 350.095, 350.100, 350.110, 350.151, 350.465, 350.515(5)

STATUTORY AUTHORITY: KRS 350.060, 350.062, 350.064, 350.093, 350.095, 350.100, 350.151, 350.465, 350.515(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 authorizes the cabinet to promulgate administrative regulations to ensure bonds are adequate to perform reclamation in the event of forfeiture. KRS 350.515(5) authorizes members to provide full-cost bonds in lieu of maintaining membership in the fund. This administrative regulation establishes information for members that elect to provide full-cost bonds rather than remain in the Kentucky Reclamation Guaranty Fund.

Section 1. Applicability. This administrative regulation applies to permittees electing to provide full-cost bonds to the cabinet in lieu of participation in the Kentucky Reclamation Guaranty Fund.

Section 2. Decision to Opt-out. (1) Pursuant to KRS 350.515(5), a member may elect to opt-out of the Kentucky Reclamation Guaranty Fund and provide a full cost bond.

(2) A member joining the KRGF after July 1, 2013, shall declare the decision to opt-out on the Technical Information for a Mining Permit, Form MPA-03, incorporated by reference in 405 KAR 8:010, Section 26. This subsection shall not apply to those permits issued pursuant to 405 KAR 8:010, Section 22.

Section 3. Full-Cost Reclamation Bonding Estimate. (1) The requirements of 405 KAR 10:015, Section 7 and Section 8(7); 405 KAR 16:060, Section 8; 405 KAR 18:060, Section 12; and 405 KAR 18:210, Section 3, shall apply to the calculation of the estimate. The provisions of 405 KAR 10:015, Section 11, shall not apply to calculating a full-cost bonding reclamation estimate.

(2) Full-cost reclamation bonding estimates shall be calculated pursuant to the Kentucky Department for Natural Resources Full-cost Reclamation Bond Calculation Manual.

(3) The calculations shall be submitted on one (1) of the following forms, incorporated by reference in 405 KAR 8:010:

(a) Technical Information for a Mining Permit, Form MPA-03;

(b) Application to Transfer a Mining Permit, MPA-07; or

(c) Application for a Coal Marketing Deferment, MPA-10.

(4) The reclamation bonding estimate shall be certified by a registered professional engineer, as defined in KRS 322.010, in good standing.

(5) A member shall provide the full-cost reclamation bond upon notification that the full-cost reclamation estimate has been accepted by the department.

(6) A member with permits issued prior to July 1, 2013 shall post full cost reclamation bonds with the department before April 30, 2014 on all permits held by the member.

Section 4. Incorporation by Reference. (1) "Kentucky Department for Natural Resources Full-cost Reclamation Bond Calculation Manual", August 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Natural Resources, 300 Sower Boulevard, Frankfort, KY 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (40 Ky.R. 482; 1066; eff. 11-7-2013; TAm eff. 7-6-2016.)